

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA 99/00-3036
	)	
Phibro-Tech, Inc.	)	SCHEDULE FOR COMPLIANCE ON
8851 Dice Road	)	CONSENT
Santa Fe Springs, CA	)	Health and Safety Code
90670-0118	)	Section 25187
	)	
EPA I.D. CAD008488025	)	
Respondent.	)	

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The State Department of Toxic Substances Control (Department) and Phibro-Tech, Inc. (Respondent) enter into this Schedule for Compliance on Consent (Compliance Schedule) and agree as follows:

1. Respondent received a Hazardous Waste Facility Permit (Permit) to operate a hazardous waste treatment and storage facility at 8851 Dice Road, Santa Fe Springs, California (Facility). The Permit was issued on July 29, 1991 and expired on July 29, 1996. Respondent applied to renew its Permit in January, 1996 and is operating under the conditions of the existing Permit pending a permit decision.

2. The Department inspected the Facility on May 30 to June 2, 2000.

3. The Department alleges the following violations:

3.1. Storage Capacity. The Respondent violated its Permit, section III.A, and Title 22, California Code of Regulations (CCR), section 66270.4(b), in that on or about May 30 - June 2, 2000, the Facility exceeded its permitted storage

capacity of 3,146 55-gallon containers by storing up to 8,932 55-gallon drums, which is 5,786 drums over its authorized capacity.

3.2. Secondary Containment. The Respondent violated the Health and Safety Code (HSC), section 25201(a), and its Permit, section III.A, in that on or about May 30-June 2, 2000, the Facility stored hazardous wastes outside the authorized storage areas.

3.3 Aisle Space. The Respondent violated 22 CCR, section 66264.35 and its Permit, section II.H.4., in that on or about May 30 - June 2, 2000, the Respondent failed to maintain aisle space in storage area ERS #1 to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment in an emergency.

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

5. Jurisdiction exists pursuant to Health and Safety Code (HSC) section 25187.

6. Respondent waives any right to a hearing in this matter, *as to the Schedule for compliance and ancillary issues addressed this schedule for compliance on consent. Jm*

7. This Compliance Schedule addresses the actions necessary for Respondent to return to compliance with hazardous waste storage requirements. This Compliance Schedule does not address all violations observed during the inspection on May 30 - June 2, 2000. Respondent waives any objections to the Department taking enforcement action to assess a penalty for the violations specified above **or to** cite additional violations observed during the inspection on May 30 - June 2, 2000.

8. Respondent does not admit the violations described above, or any additional violations that may be alleged, nor does Respondent admit that any penalty is appropriate.

#### 9. SCHEDULE FOR COMPLIANCE

9.1. Respondent shall submit an application for a Class 3 permit modification to address increased storage capacity, secondary containment, and other modifications as needed, pursuant to 22 CCR, section 66270.42 (c). The permit modification application shall be submitted to the Department within forty-five (45) calendar days of the effective date of this Compliance Schedule. Respondent shall reimburse the Department for the cost associated with the review of the application via a Cost Reimbursement Agreement or 40 percent of the activity fee for each unit directly impacted, up to a maximum of 80 percent, pursuant to HSC, section 25205.7(d) (1)(H). The Cost Reimbursement Agreement must be signed before the Department undertakes its review of the permit modification application.

9.2. This Compliance Schedule expires twelve (12) months from the effective date of this Compliance Schedule or on the effective date of the Department's determination on the permit modification application.

9.3. During the effective period of this Compliance Schedule, the Respondent shall comply with the following:

9.3.1. Storage Capacity. Respondent shall not store more than 5,748 55-gallon drums or other DOT-compliant containers at the Facility during the period covered by this Compliance

Schedule. The Respondent shall submit a site plan demonstrating that 5,748 55-gallon drums or other DOT-compliant containers can be safely stored at the Facility and the areas in which storage will occur. Areas of truck movement at the Facility shall be indicated on the site plan. The site plan is to be submitted to the Department for approval seven (7) calendar days from the effective date of this Compliance Schedule.

**9.3.2. Secondary Containment.** The Respondent shall immediately place a temporary secondary containment system consisting **of** an impervious, durable liner that is compatible with the stored wastes and absorbent socks or other media around the unauthorized storage areas in which storage occurs pursuant to Section **9.3.1** of this Compliance Schedule. The Respondent shall have the temporary secondary containment system operational as quickly as practical, but no later than twenty-one **(21)** calendar days after the effective date of this Compliance Schedule.

**9.3.3. Aisle Space.** Respondent shall immediately maintain aisle space of **24** inches or more at all areas of hazardous waste storage.

**9.3.4. Container Stacking.** The Respondent shall not stack containers (i.e., drums) more than three **(3)** high. Each container must sit directly on a pallet. Where containers are stacked more than two high, supplemental support in the form of bands or stretch wrap on the third level shall be provided within fourteen **(14)** calendar days to prevent tipping or falling.

9.3.5. Respondent shall revise its closure cost estimate and provide a revised financial assurance mechanism that reflects the increased closure cost estimate associated with the storage of additional drums. This documentation shall be submitted within thirty (30) calendar days of the effective date of this Compliance Schedule. The Department reserves the right to adjust the closure cost estimate and Respondent shall adjust the financial assurance mechanism accordingly.

9.4. Submittals: All submittals from Respondent pursuant to this Compliance Schedule shall be sent simultaneously to:

Mr. Jose Kou, Branch Chief  
-Department of Toxic Substances Control  
Permitting Division  
Hazardous Waste Management Program  
1011 N. Grandview Ave.  
Glendale, CA 91201

and a copy to:

Ms. Florence Gharibian, Branch Chief  
Department of Toxic Substances Control  
Statewide Compliance Division  
- Hazardous Waste Management Program  
1011 N. Grandview Ave.  
Glendale, CA 91201

9.5. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve

Respondent of its obligation to obtain such formal approvals as may be required.

9.6. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Compliance Schedule fails to comply with this Compliance Schedule or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.7. Compliance with Applicable Laws: Respondent shall carry out this Compliance Schedule in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.8. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Compliance Schedule) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Compliance Schedule directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

9.9. Liability: Nothing in this Compliance Schedule shall constitute or be construed as a satisfaction or release

from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Compliance Schedule. Notwithstanding compliance with the terms of this Compliance Schedule, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.10. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Compliance Schedule is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Compliance Schedule; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Compliance Schedule.

9.11. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken

pursuant to this Compliance Schedule. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Compliance Schedule. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Compliance Schedule. **All** such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion **of** all activities under this Compliance Schedule. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Compliance Schedule.

**9.12. Government Liabilities:** The State of California shall not be liable for injuries or damages to persons or property resulting from acts **or** omissions **by** Respondent or related parties specified in paragraph **10.3**, in carrying out activities pursuant to this Compliance Schedule, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Compliance Schedule.

**9.13. Incorporation of Plans and Reports:** **All** plans, schedules, and reports that require Department approval and are **submitted by Respondent pursuant to this Compliance Schedule are**



incorporated in this Compliance Schedule upon approval by the Department.

9.14. Extension Reauests: If Respondent is unable to perform any activity or submit any document within the time required under this Compliance Schedule, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.15. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new schedule for attaining compliance.

## 10. OTHER PROVISIONS

10.1. Additional Enforcement Actions: By agreeing to this Compliance Schedule, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Compliance Schedule.

10.2. Penalties for Noncompliance: Failure to comply with the terms of this Compliance Schedule **may** subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

10.3. Parties Bound: This Compliance Schedule shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, ,employees, contractors,

consultants, successors, and assignees, including, but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Compliance Schedule.

10.4 Effective Date: The effective date of this Compliance Schedule is the date it is signed by the Department.

10.5 Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

10.6 Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

Dated: 7/13/00

Original signed by Thomas L. Moran  
Thomas L. Moran, Senior Vice  
President and Chief Regulatory Officer  
Phibro-Tech, Inc.

Dated: 7/14/00

Original signed by Frederick L. Moss for  
Norman E. Riley, Chief  
Statewide Compliance Division  
Hazardous Waste Management Program  
Department of Toxic Substances Control